



DEPARTMENT OF ENVIRONMENTAL RESOURCES

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July 26, 2005

Tina Gonzales
California Environmental Protection Agency
Unified Program Section
1001 I Street, 2nd Floor
Sacramento, California 95812

SUBJECT: Comments on the 2005 CUPA Evaluation Summary of Findings

Dear Ms. Gonzales:

The following comments are regarding the above-mentioned document:

2005 CUPA EVALUATION SUMMARY OF FINDINGS

1. **Deficiency:** The CUPA is not conducting inspections (hazardous waste generators) with a frequency that is consistent with its Inspection and Enforcement Plan and with the inspection of other program elements. The CUPA has not inspected all 1228 hazardous waste generators that have been identified by the CUPA.

Required Action: The CUPA shall complete inspections of all facilities, including farms with a five-year inspection cycle.

DER Response: The Department agrees that not all generators of hazardous waste have been inspected and that we are behind schedule. The required action states that we shall complete inspections for all facilities including farms within a five-year cycle. As I presented to the evaluation team, we recognized we were behind in our inspections and have already made adjustments. My CUPA district staff have focused their attention on the generator inspections over the past fiscal year. My records show that 267 generator inspections were completed including larger farms during the 2004/2005 fiscal year (see attached). A review of our Inspection and Enforcement Plan presented to the Evaluation team only shows 1156 hazardous waste generators, not 1228 within Stanislaus County. By dividing 1156 facilities by five, we would need to complete 231 inspections per year to accomplish our goal.

The inspections for the smaller farms will be included as staff and time permit us to do so. A survey of the surrounding valley counties has shown this to be the case for all. We believe we have made the necessary corrections in addressing this deficiency. We will continue to monitor our CUPA inspections to assure we stay on task.

2. **Deficiency:** The CUPA has not conducted a complete oversight inspection. During the inspection, the inspector failed to require the operator to make a hazardous waste determination of a metallic dust from the turning of a brake drum on a lathe, and failed to determine whether the generator was required to have secondary containment provided for his waste oil and antifreeze tanks onsite.

Required Action: The inspector was apprised of the deficiency and the deficiency was corrected.

DER Response: The deficiency was corrected so no further action is required. The Department will continue to provide generator training to the CUPA staff to help develop and improve their generator program knowledge and inspection skills

3. **Deficiency:** The CUPA failed, in this instance, to take enforcement in a manner consistent with the law in that the CUPA failed to take appropriate formal enforcement action. From a complaint, the inspector noted an auto wrecker was crushing cars on railroad property. The wrecking company had a tarp underneath the crusher to contain the oil runoff, but there still was some soil staining. The inspector halted the crushing activity but did not impose a penalty against the wrecking company; instead, they referred the case to the railroad company.

Required Action: The CUPA shall take formal enforcement.

DER Response: The Department has reviewed the complaint and I have spoken with the district inspector. The auto wrecker under the direction and supervision of the Department removed the small amount of oil that ran off the tarp onto the soil. The soil, which only amounted to little over half a drum, was contained and moved to the property of the auto wrecker for proper disposal. There was a mobile home owned by the auto wrecker on the railroad property, which we referred to Code Enforcement and to the railroad company. The contaminated soil case was not referred to the railroad company. We did not and still do not feel that this case warrants any formal enforcement action due to the amount of oil moved off the tarp placed under the crushing operation. In addition, the auto wrecker would have to pay for the disposal of the contaminated soil. The Department does take formal enforcement action when necessary as illustrated with the data provided to the evaluation team during their visit. The Department feels we are in compliance and disagree with this deficiency.

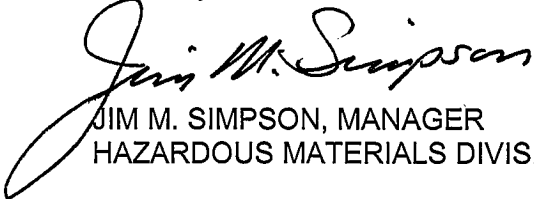
4. **Deficiency:** The CUPA is not inspecting all the businesses subject to the business plan program for compliance at least once every three years.

Required Action: The CUPA is to inspect all businesses subject to the business plan every three years.

DER Response: The Department agrees that we are behind in our business plan inspection, but mainly in our farm inspection program. My records show that we have 1969 active businesses (excluding farms) in our database (see attached). If you divided that number by three, it will equal to 656 inspections per year to meet our goal. Last fiscal year, my CUPA district staff conducted 710 business plan inspections (see attached). We currently have 589 farms in our business plan program. Of these, we inspected 105 over the past fiscal year. We will need to conduct 196 farm inspections per year to meet our goal. Additional time for farm business plan inspections will be required by the CUPA district staff to increase the number of farm business plan inspections. We will monitor our CUPA staff inspections to assure the numbers of farm inspections are increased to at least 196 farms per year to reach our goal.

If you have any questions, please contact me at (209) 525-6753.

Sincerely,



JIM M. SIMPSON, MANAGER
HAZARDOUS MATERIALS DIVISION

Attachments

Cupa Inspection Summary

District 1

Dates 7/1/2004 To 6/30/2005

Program	# of Facilities	# of Inspections
AGT	119	0
Business Plan	507	156
Business Plan Farms	77	2
Cal Arp	13	0
Generato	400	79
Medical Waste	49	11
Tiered Permitting	6	3
Active USTs	40	36

Cupa Inspection Summary

District 2

Dates 7/1/2004 To 6/30/2005

Program	# of Facilities	# of Inspections
AGT	102	0
Business Plan	521	219
Business Plan Farms	252	87
Cal Arp	5	1
Generato	183	69
Medical Waste	12	1
Tiered Permitting	1	0
Active USTs	16	18

Cupa Inspection Summary

District 3

Dates 7/1/2004

To 6/30/2005

Program	# of Facilities	# of Inspections
AGT	93	0
Business Plan	412	143
Business Plan Farms	83	5
Cal Arp	25	5
Generato	283	62
Medical Waste	18	1
Tiered Permitting	6	0
Active USTs	23	19

Cupa Inspection Summary

District 4

Dates 7/1/2004

To 6/30/2005

Program	# of Facilities	# of Inspections
AGT	101	0
Business Plan	398	104
Business Plan Farms	177	11
Cal Arp	13	2
Generato	163	46
Medical Waste	22	8
Tiered Permitting	0	0
Active USTs	13	12

Cupa Inspection Summary

District 7

Dates 7/1/2004 To 6/30/2005

Program	# of Facilities	# of Inspections
AGT	2	0
Business Plan	131	88
Business Plan Farms	0	0
Cal Arp	0	0
Generato	127	11
Medical Waste	0	0
Tiered Permitting	0	0
Active USTs	126	103

Complaint

27 for Div HM

Complaint 27 ☐ 2 Assist
Date Rec'd 3/14/2005 Time Recd 09:35 AM
Received B spotter Status Referred
District Assigned To LAM Type
Referred By
Address 513 CROWS LANDING MODESTO
Cross Street 7TH Site Desc POSSIBLY 531 CROWS LANDING

Complaint

AUTO WRECKER DRAINING OIL ONTO THE EAST SIDE OF CROWS LANDING, THEY ARE ON THE WEST SIDE OF CROWS LANDING. THIS WAS SEEN BY BRYAN ENGLAND AT PUBLIC WORKS WHO CALLED HIS OFFICE TO CALL US

Prop Owner	Owner Phone
Address	
Complainant SHERRY, PUB WORKS	Phone 525-4130
Address	
Keep Confidential	No

Other complaints at this address

Complaint #	Date Received	Division	Assigned To	Status
3061	9/24/2003	CE	Frank Alvarez	C

Action Taken

3/14/05 ONSITE VERIFICATION OF COMPLAINT. ACTUAL LOCATION OF COMPLAINT IS LOCATED ON THE EAST SIDE OF 520 CROWSLANDING ROAD. MET WITH THE OWNER OF MODESTO AUTO WRECKERS, GEORGE SILER. NOTED CARS BEING CRUSHED NEXT TO RAILROAD BY FORREST SILVA CRUSHING. I NOTED A TARP UNDERNEATH THE CRUSHER TO CONTAIN THE WASTE OIL RUN OFF FROM THE VEHICLES. THERE SOME SOIL STAINING FROM THE WASTE OIL. THERE WAS AN AREA OF APPROXIMATELY 10 BY 20 FEET OF OIL STAINING. MR. SILVA OF FOREST SILVA CRUSHING (HUGHSON, CA 209-604-6841) STATES THAT THE CONTAMINATED SOIL WILL PICKED UP AND PLACED IN 55 GALLON CONTAINERS AND STORED AT MODESTO AUTO WRECKERS FOR DISPOSAL AS HAZARDOUS WASTE. I SPOKE TO MR. SILER (MODESTO AUTO WRECKERS, 520 CROWSLANDING ROAD, MODESTO CA 95351) REGARDING THE CAR CRUSHING ACTIVITY NEXT TO THE RAILROAD PROPERTY. HE STATED THAT HE HAD PERMISSION FROM "SANTA FE RAILROAD". THE PROPERTY IS OWNED BY UNION PACIFIC RAILROAD. I CONTACTED BRAIN CHAVES FROM UNION PACIFIC REGARDING THE ACTIVITY THERE. MR. CHAVES STATED THAT MODESTO AUTO WRECKERS DOES NOT HAVE PERMISSION TO CRUSH VEHICLES ON THEIR PROPERTY. I ALSO NOTED A MOBILE HOME NEXT TO THE CRUSHED VEHICLES REFFERRED CASE CODE ENFORCEMENT. 3/15/05 FOLLOW UP. ONSITE VERFICATION OF THE CLEAN UP FROM THE CRUSHING ACTIVITY. THE AREA OF OIL SPILL HAS BEEN CLEANED AND THE HAZARDOUS WASTE WAS CONSOLIDATED AT MODESTO AUTO WRECKERS FOR PICK UP.